

### **REMARKS/ARGUMENTS**

Reconsideration is respectfully requested of the Official Action of May 29, 2008, relating to the above-identified application.

A Terminal Disclaimer is filed herewith, together with the associated fee, with respect to US Patent 7,095,929, commonly assigned to the same assignee as the present application. The rejection of Claims 1 and 2 on the ground of obviousness double patenting has been overcome.

The rejection of Claim 5 under 35 U.S.C. § 112 is traversed and reconsideration is respectfully requested. Claim 3, on which Claim 5 depends, has been amended to specify that the claimed method relates to reducing the time for incorporation of compacted hydrophobic silica into thixotropic adhesives and sealants. Claim 3 further now specifies that the compacted bulk density of the silica is the range of 60 g/l to 200 g/l. Basis is found in paras. [0160] and [0168] of the published application.

Claim 4 has been deleted as redundant.

Claims 1 and 3 have been amended to specify that the silica has been compacted by a roller compactor or by a pressing filter belt. Basis is found in para. [0146] of the published application.

The claims in the application are Claims 1, 2, 3 and 5.

The rejection of the claims under 35 U.S.C. § 102(b) as anticipated by the published application of *Gunther, et al.*, [*sic. Gunther Michael et al.*] US 2002/0037936, is traversed and reconsideration is respectfully requested. The published application of *Gunther Michael, et al.*, describes a hydrophobic pyrogenically produced silica having a tamped density of 55 to 200 g/l. Silica used in Example 2 of the *Michael* published application is incorporated into an epoxy resin polymer. The claims have been amended to delete epoxy resins and, therefore, the *Michael* publication is no longer an anticipation of the claimed subject matter.

The rejection of Claims 1 and 2 under 35 U.S.C. § 102(b) as anticipated by the *Hartmann, et al.*, patent (US 5,959,005), is traversed and reconsideration is respectfully requested. The *Hartmann, et al.*,

patent describes a surface modified, hydrophobic silanized silica powder which has been structurally modified by a ball mill. Although it can be used in adhesives, it has no thickening effect. *Hartmann, et al.*, does not disclose a compacted silica as defined in the present claims. Furthermore, there is no suggestion that the time for incorporation of the silica into the adhesive for sealant compositions could be reduced by utilizing a compacted hydrophobic silica as defined in the present claims.

Accordingly, applicants respectfully submit that *Hartmann, et al.*, does not anticipate the subject matter of Claims 1 and 2.

The rejection of the claims under 35 U.S.C. § 102(b) in view of the published application of *Meyer, et al.*, US 2002/0077388, is traversed and reconsideration is respectfully requested.

The *Meyer, et al.*, document describes a functionalized modified silica having silyl groups on the surface which are highly hydrophobic. The silica of *Meyer, et al.*, has been structurally modified by a ball mill but the silica does not have any thickening effect as shown by Table 2 in para. [0015] of the published application. The *Meyer, et al.*, document does not describe any compacted silica as defined in the present claims. Accordingly, applicants respectfully submit that the *Meyer, et al.*, publication does not anticipate the claims of this application.

The rejection of Claims 1, 2, 3 and 5 under 35 U.S.C. § 102(b) as anticipated by the *Adams* patent, US 6,156,285, is traversed and reconsideration is respectfully requested. The *Adams* patent describes a method for densifying particulate silica and a method for compounding a curable silicon composition comprising a reinforcing silica filler. The particulate silica can be fumed silica, precipitated silica, colloidal silica and silica gels. The preferred silica is a fumed silica as shown in col. 3, line 24. The *Adams* patent does not describe any hydrophobic silica, however, and, therefore, does not anticipate the claimed subject matter.

The rejection of Claims 3 and 5 under 35 U.S.C. § 103(a) as unpatentable in view of the *Hartmann, et al.* patent, US 5,959,005, is traversed and reconsideration is respectfully requested.

*Hartmann, et al.*, describes a surface modified hydrophobic silanized silica powder which has been structurally modified by a ball mill. No thickening effect is observed following the procedures shown in the *Hartmann, et al.*, patent. Consequently, a person skilled in the art wishing to produce an adhesive or sealant composition exhibiting a good thickening effect would not select the silica powder described by *Hartmann, et al.* Applicants' silica is produced by a roller compactor or by a pressing filter belt as shown in para. [0146] of applicants' published application 2007/0129480. The sealant and adhesive compositions according to the present invention have the advantage that the thixotropic feature is not changed but the incorporation time is markedly shorter. This is explained in paras. [0167] to [0170] of applicants' published application US 2007/0129480.

Applicants respectfully submit that there is no teaching in the *Hartmann, et al.*, reference which would suggest any modification or change in the *Hartmann, et al.*, invention whereby a person skilled in the art would arrive at the presently claimed subject matter. Accordingly, applicants respectfully request that the rejection be withdrawn and that the application be allowed at the Examiner's earliest convenience.

Respectfully submitted,



By: Robert G. Weilacher, Reg. No. 20,531

Dated: August 25, 2008  
SMITH, GAMBRELL & RUSSELL, LLP  
Suite 3100, Promenade II  
1230 Peachtree Street, N.E.  
Atlanta, Georgia 30309-3592  
Ph: (404) 815-3593  
Fax: (404) 685-6893